

LISTING AGREEMENT
THIS IS A LEGALLY BINDING CONTRACT. IF YOU DO NOT
UNDERSTAND IT, SEEK LEGAL ADVICE.

Seller: _____

Address _____

Listing Date: _____ Expiration Date: _____ (midnight)

If a purchase agreement is entered into by Seller during the term of this agreement, the termination thereof shall extend to and include the date of closing under said purchase agreement as to the purchasers only.

1. The undersigned Seller warrants that Seller is the owner of record of the property or has the written authority, attached, to execute this Agreement on behalf of the owner of record and hereby grants the undersigned Broker, for the above term, the exclusive irrevocable right and privilege to sell the following property legally described as: _____

Also known as: _____

For the sum of: _____ (\$ _____)

On the following terms: _____

or with Seller's consent, for a lesser sum or on other terms, which price includes all encumbrances, taxes, and assessments.

2. A. Broker will represent Seller as outlined in Article I of the attached Agency Agreement Addendum. Broker will act, with Seller's consent, as outlined in Article III when showing Seller's property to buyer client(s) of Broker. Seller acknowledges and consents that Broker may represent and/or assist other sellers of similar properties. Prospective buyers will be offered the opportunity to inspect Seller's property and also any or all similar properties.

B. Seller authorizes Broker, by initials in the appropriate space, to:

a) cooperate with brokers who represent buyers. Yes _____ / _____ No _____ / _____

b) compensate cooperating brokers. Yes _____ / _____ No _____ / _____

3. The term "sale" shall be deemed to include any exchange or trade to which Seller consents. In the event of an exchange or trade, Broker is permitted to represent and receive compensation from both parties.

4. Seller represents the title of the property to be good and merchantable and hereby represents that all known encumbrances, liens or clouds on title are disclosed. In the event of a sale, exchange or trade, Seller at Seller's expense will convey good and merchantable title to said property by Warranty Deed or sufficient conveyance instrument to Buyer, thereof. In the event of an undisclosed encumbrance that results in cancellation by Buyer, discharge of Buyer from purchase price and/or assumption by Buyer who is credited on the purchase price for the undisclosed encumbrances, liens, or cloud on title, Seller shall be liable to Broker for fee outlined in Section 5 as though contract of sale was not canceled.
5. If during the period of this agreement the property is sold by Seller, Broker, a cooperating broker, or anyone else; or should any of the aforementioned produce a purchaser ready, willing, and able to purchase the property; or within _____ days after the expiration or mutual written termination of this contract, a sale is made to any person to whom the property has been shown during the listing period; Seller agrees to pay a fee for professional services of \$_____ OR _____ percent of the selling price plus appropriate sales tax. Seller further agrees that Broker or Broker's authorized representative may act as escrow agent for all money, papers, and documents associated with this transaction. If this property is listed with another licensed real estate broker after expiration or mutual written termination of this listing, this contract shall be null and void in its entirety.
6. If an accepted offer and agreement to purchase does not close, both Buyer and Seller must agree in writing prior to release of earnest money in accordance with SDCL 36-21A-81. If the earnest money deposited by Buyer is forfeited, the earnest money, less expenses, will be divided between Broker and Seller with ____% to Seller and ____% to Broker. However, in no case may Broker's share exceed the commission stated herein.
7. The following personal property is included in the stated price and shall be conveyed by Seller to Buyer, free of liens and without warranty of condition, by a bill of sale at closing and in accordance with its terms:
- _____
- _____
- _____
- _____
- _____
- _____
8. Seller authorizes Broker, by initials in the appropriate space, to:
- | | | |
|---|-------------------|------------------|
| A. place property with the Multiple Listing Service. | Yes _____ / _____ | No _____ / _____ |
| B. place a "For Sale" sign on property. | Yes _____ / _____ | No _____ / _____ |
| C. install a lockbox on the property. | Yes _____ / _____ | No _____ / _____ |
| D. request mortgagee to release information to Broker. | Yes _____ / _____ | No _____ / _____ |
| E. request utility companies to release information to Broker. | Yes _____ / _____ | No _____ / _____ |
| F. advertise by computerized or other media. | Yes _____ / _____ | No _____ / _____ |
| G. disclose to buyers or buyers' agents that Seller has received other offers | Yes _____ / _____ | No _____ / _____ |

9. This property is offered for sale regardless of race, color, creed, religion, sex, disability, familial status, country of national origin or any other category protected under federal, state or local law.
10. Seller(s) shall complete and submit a property condition disclosure statement as required by SDCL 43-4-38, unless exempt pursuant to SDCL 43-4-43, with this listing agreement.
11. Seller(s) shall complete and submit a lead-based paint disclosure if property is residential and was built prior to 1978 as required by federal regulation.
12. Seller agrees to indemnify and hold harmless Broker and Broker's agents from any claim(s) arising out of misrepresented or incomplete disclosure statements made by Seller.
13. Seller acknowledges that there may be tax consequences arising out of the sale of this property and is advised to seek competent tax advice.
14. Unless otherwise agreed in writing, Seller acknowledges that Broker and Broker's agents owe no duty to conduct an independent inspection of the property or to conduct an independent investigation of Seller's financial condition, and owe no duty to independently verify the accuracy or completeness of any statement made by either party or by any source reasonably believed by Broker and Broker's agents to be reliable.
15. This Agreement shall be binding upon and inure to the benefit of Seller's heirs, executors, administrators and assigns of the respective parties to this Agreement.

16. Special instructions: _____

Receipt of a copy of this contract by the seller has been acknowledged.

Seller _____ Date _____

Seller _____ Date _____

Broker/Firm _____

by Agent _____ Date _____

153 **AGENCY AGREEMENT ADDENDUM**

154 This addendum is attached to and made a part of the ___ listing agreement ___ buyer agency agreement dated _____,
155 between _____ (Brokerage Firm) and
156 _____ (Client).

157 **I. IF THE BROKER REPRESENTS THE ___ SELLER/LANDLORD or ___ BUYER/TENANT:** If a broker enters into an
158 agreement to represent a seller/landlord or buyer/tenant as a client, the broker and all licensees associated with that broker represent
159 the client. An agent/subagent owes the client the duties of loyalty, obedience, disclosure, confidentiality, reasonable care and
160 diligence, and full accounting.
161

162 **II. IF THE BROKER APPOINTS AN ASSOCIATE LICENSEE TO REPRESENT THE ___ SELLER/LANDLORD or**
163 **___ BUYER/TENANT:** If a broker enters into an agreement to represent a seller/landlord or buyer/tenant as a client, the broker
164 appoints _____ as the client's appointed agent. For the purposes of this addendum, the client
165 shall have an agency relationship with ONLY the appointed agent, the responsible broker _____ and,
166 if applicable, responsible broker's designated broker _____.
167 The responsible broker may appoint other affiliated licensees during the term of the brokerage agreement should the appointed agent
168 not be able to fulfill the terms of the brokerage agreement or as by agreement between the responsible broker and the client. An
169 appointment of another affiliated licensee or an additional affiliated licensee does not relieve the first appointed agent of any duties
170 owed to the client.
171

172 **III. IF THE BROKER, ASSOCIATE LICENSEE OR APPOINTED AGENT REPRESENTS BOTH THE**
173 **SELLER/LANDLORD AND THE BUYER/TENANT:** A real estate broker acting directly or through an associate licensee or
174 appointed agent can legally be the agent of both the seller/landlord and the buyer/tenant in a transaction, but only with the knowledge
175 and written consent of both parties. If a buyer/tenant represented by a broker wants to see a property of a seller/landlord being
176 represented by the same broker, the following provisions will govern the actions of the broker.
177

- 178 A. The broker may not knowingly say anything or do anything which might place one party at a disadvantage, disclose
179 personal confidences of one party or the other party, or any other information a party specifically instructs the broker
180 in writing not to disclose, unless disclosure is required by law.
181
182 B. The broker may not, without the prior express written consent of the owner, disclose to the buyer/tenant that the
183 owner might accept a price less than the listing price, nor shall the broker, without the prior express written consent of
184 the buyer/tenant, disclose to the owner that the buyer/tenant may be willing to pay a higher price, or accept terms less
185 favorable to the buyer/tenant than those indicated in the buyer's/tenant's previous offer.
186
187 C. The broker may not represent the interests of either the owner or buyer/tenant to the detriment of the other party. The
188 broker is obligated to inform each party of all facts the broker knows which would affect the party's decision to
189 permit the broker to represent both the owner and the buyer/tenant.
190

191 **CONSENT AGREEMENT:** If the seller/landlord elects to negotiate with a buyer/tenant that is a client of the broker, or a
192 buyer/tenant elects to negotiate with a seller/landlord that is a client of the broker, it is understood that both parties will be required to
193 confirm, in writing, their election to have the broker act as a consensual limited agent.
194

195 **AGENT OBLIGATIONS:** Regardless of representation, the broker shall: Disclose all known material facts about the property
196 which could affect the buyer's/tenant's use or enjoyment of the property, disclose information which could have a material impact on
197 either party's ability to fulfill their obligations under the purchase/lease agreement, respond honestly and accurately to questions
198 concerning the property, and deal honestly and fairly with all parties. The duties of the broker in a real estate transaction do not
199 relieve an owner or buyer/tenant from the responsibility to protect their own interests. You should carefully read all documents to
200 assure that they adequately express your understanding of the transaction. If you have questions regarding the duties and
201 responsibilities of the broker, you should resolve those questions before proceeding further.

202 Having read and understood this information about agency, I instruct Broker as initialed below:

203 I agree to an appointed agency relationship as described in section II above. ____/____/____ Yes ____/____/____ No

204 I agree to a potential limited agency representation as described in section III above. ____/____/____ Yes ____/____/____ No

205
206
207
208
209 [] Buyer/Tenant [] Seller/Landlord (date/time) [] Buyer/Tenant [] Seller/Landlord (date/time)
210
211 by _____
212 [] Broker (date/time) [] Agent (date/time)
213